

REMARKS

Upon entry of the proposed amendment, Claims 1 and 10 will be amended, and Claim 13 will be added. Independent Claims 1 and 10, with Claims 2-4, and 11 and 12, respectively, depending therefrom, and newly presented independent Claim 13 will remain for consideration.

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

The Examiner rejected Claims 1-3 under 35 U.S.C. 103(a) as being unpatentable over newly cited prior art reference to Ackerman in view of McCormick. The Examiner rejected Claims 4, 10, 11, and 12 under 35 U.S.C. 103(a) as being unpatentable over Ackerman in view of McCormick, and further in view of Lyne, Jr. These rejections are respectfully traversed.

The newly applied prior art reference to Ackerman discloses a roofing tool having a narrow elongated bowed blade, capable of rocking, with a working end. The working end has a serrated edge. The end of the blade opposite the working end has a handle including a hand shield and a hand grip. The hand grip has a tubular configuration, and is bent so that one end is welded to the blade, and the other end is welded to the hand shield, and the hand shield is welded to the blade.

The applied prior art reference to McCormick discloses a device for scraping marine life from propeller shafts of marine vessels. The device described in McCormick has a U-shaped handle affixed to an inverted arcuate base. The legs of the U-shaped handle have a gripping member attached therebetween by screws. The bottom of the U-shaped handle is spot welded to the inverted arcuate base along the length thereof. The inverted arcuate base

is designed and configured to match the curvature of the propeller shaft, so that by reciprocally and linearly motioning the tool along the shaft, marine life (e.g., barnacles) are scraped off of the shaft. In contrast, the presently claimed pry bar includes a lever having a front half section and a rear half section extending between the front and rear ends, such that the front end extends substantially beyond the rear section, and the gripping member is disposed entirely within the rear section of the lever. Applicant pry bar provides increase leverage with less force, and easily wedged underneath building material that needs to be lifted and removed. Clearly, McCormick's device is structurally and functionally unrelated to Applicant's pry bar as defined by the present claims.

The reliance on the reference to Lyne, Jr. for its teaching of recycled materials is noted. However, this secondary reference fails to remedy the above noted deficiencies of the primary reference. Therefore, one skilled in the art would not be capable of arriving at the presently claimed invention in light of the teachings afforded by Health, or by combining the references in the manner suggested by the Examiner. Applicant respectfully submits that, independent Claims 1 and 10 and corresponding dependent 2-4 and 11-12 are allowable over the prior art of record.

Applicant has amended independent Claims 1 and 10 to specifically recite that a single bifurcated claw is disposed on the front end of the lever. In addition, newly presented independent Claim 13 recites a pry bar, consisting of the elongated arcuate lever, the bifurcated claw at the front end of the lever and the gripping member completely disposed on the rearward half to the lever. Applicant respectfully submits that for at least these reasons, independent Claims 1, 10, and 13 are allowable over the prior art applied of record.

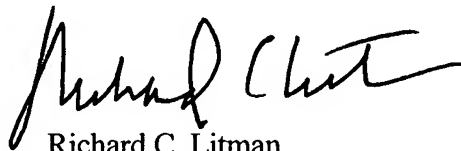
Application Serial No.: 10/659,352
Art Unit: 3723

Attorney Docket No. 23357.00
Confirmation No. 5548

The claims in this application have been revised to more particularly define Applicant's unique construction in view of the prior art of record. Reconsideration of the claims in light of the amendments and for the following reasons is respectfully requested.

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard C. Litman", written in a cursive style.

Richard C. Litman
Registration No. 30,868
(703) 486-1000

RCL:DHT:wse